

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-02-LA-143
)	
Smith Broadcasting of Santa Barbara, LP)	NAL/Acct. No. 200232900007
)	
Licensee of Station KEYT(AM))	FRN 0001650019
)	
Santa Barbara, California)	

MEMORANDUM OPINION AND ORDER

Adopted: April 30, 2003

Released: May 2, 2003

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Memorandum Opinion and Order* (“*Order*”), we cancel an eight thousand dollar (\$8,000) *Notice of Apparent Liability for Forfeiture* (“*NAL*”)¹ issued to Smith Broadcasting of Santa Barbara, LP (“*Smith*”), licensee of Station KEYT(AM), for apparently violating Section 11.35(a) of the Commission’s Rules (“*Rules*”).² The alleged violation involves Smith’s failure to have operational Emergency Alert System (“*EAS*”) equipment at Station KEYT(AM) from December 30, 2001 through February 13, 2002.

II. BACKGROUND

2. On February 13, 2002, Commission agents from the Los Angeles, California Field Office (“*Los Angeles Office*”) conducted an inspection of Station KEYT(AM). During the inspection, the agents determined that Station KEYT(AM) did not have operational EAS equipment and had not had such equipment from December 30, 2001 through February 13, 2002. On July 26, 2002, the District Director of the Los Angeles Office issued the *NAL* to Smith. Smith filed a response on August 26, 2002, in which it argued that, pursuant to Section 11.35(b) of the Rules,³ it had 60 days to operate without defective EAS equipment while it was being repaired, without further FCC authority.

III. DISCUSSION

3. Section 11.35(a) of the Rules states that “broadcast stations ... are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions

¹ *Smith Broadcasting of Santa Barbara, LP*, NAL Acct. No. 200232900007 (Enf. Bur., Los Angeles Office rel. July 26, 2002).

² 47 C.F.R. § 11.35(a).

³ 47 C.F.R. § 11.35(b).

are available during the times the stations and systems are in operation.” Further, Section 11.35(b) of the Rules provides that “[i]f the EAS Encoder or EAS Decoder becomes defective, the broadcast station ... may operate without the defective equipment pending its repair or replacement for 60 days without further FCC authority.”

4. After considering Smith’s response, we agree that pursuant to Section 11.35(b) of the Rules, Smith had 60 days to operate without the defective EAS equipment while it was being repaired, without further Commission authorization. The time frame during which Smith operated without the defective equipment, December 30, 2001 through February 13, 2002, did not exceed the number of days permitted it to do so by the Rule. Thus, we find that the monetary forfeiture should be cancelled.⁴

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 504(b) of the Communications Act of 1934, as amended,⁵ and Section 1.80(f)(4) of the Rules,⁶ the *NAL* issued to Smith Broadcasting of Santa Barbara, LP **IS CANCELLED**.

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Smith Broadcasting of Santa Barbara, LP, 730 Miramonte Drive, Santa Barbara, California 93102.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁴ See 47 U.S.C. § 504(b); 47 C.F.R. § 1.80(f)(4).

⁵ 47 U.S.C. § 504(b).

⁶ 47 C.F.R. § 1.80(f)(4).